

## EMMETT ARMSTRONG

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MARCH 25 (legislative day, MARCH 5), 1942.—Ordered to be printed

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Mr. SPENCER, from the Committee on Claims, submitted the following

## REPORT

[To accompany H. R. 5452]

The Committee on Claims, to whom was referred the bill (H. R. 5452) for the relief of Emmett Armstrong, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1869, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

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[H. Rept. No. 1869, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5452) for the relief of Emmett Armstrong, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

At the end of bill add: "*Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the proposed legislation is to pay the sum of \$1,525 to Emmett Armstrong, of Lisbon, St. Lawrence County, N. Y., in full settlement of all claims against the United States for damage to lands on his property as the result of the use of such lands by the War Department for the camping and maneuvering of troops during field exercises in the month of August 1940.

## STATEMENT OF FACTS

It appears that under the terms of the rental agreement entered into by Emmett Armstrong, of Lisbon, N. Y., and the United States Government on July 29, 1940, 50 acres of mixed alfalfa, clover, and timothy hay land, and 25 acres of pasture land, about 1 mile west of Lisbon village on Five-Mile Line Road, were leased to the United States as camp sites for troops engaging in the First Army maneuvers during the month of August 1940. The claimant alleges that as a result of the occupancy of his property, 50 acres of land were damaged to such an extent as to

necessitate replowing and reseedling, and that he was damaged in the sum of \$2,000, representing loss of hay in 1941, due to reconditioning said 50 acres of land.

Three members of the Farm Board of Appraisers appeared before the board of officers convened to investigate the claim and testified that to the best of their knowledge and belief, a just and reasonable estimate of the damage done to the property in question was approximately \$1,525.

The board recommended an award of \$1,525, which amount the claimant has expressed his willingness to accept. This amount being in excess of what the War Department could pay, the Department recommended private legislation, and favors the enactment of this legislation.

Therefore, your committee recommend favorable consideration of the bill and append hereto the report of the War Department, together with other pertinent evidence.

WAR DEPARTMENT,  
Washington, September 5, 1941.

Hon. DAN R. McGEHEE,

*Chairman, Committee on Claims, House of Representatives,*

*Washington, D. C.*

DEAR MR. McGEHEE: The War Department will interpose no objection to the enactment of H. R. 5452, Seventy-seventh Congress, which would pay to Emmett Armstrong, of Lisbon, St. Lawrence County, N. Y., the sum of \$1,525 in full settlement of all claims against the United States for damages to his property arising out of the occupancy and use of his lands by the Army in connection with the First Army maneuvers held in the vicinity of Lisbon, N. Y., during the month of August 1940.

Under the terms of the rental agreement, entered into by Emmett Armstrong of Lisbon, N. Y., and the United States Government on July 29, 1940, 50 acres of mixed alfalfa, clover, and timothy hay land and 25 acres of pasture land, about 1 mile west of Lisbon Village on Five-Mile Line Road, were leased to the United States as camp sites for troops engaging in the First Army maneuvers during the month of August 1940.

The claimant alleges that, as a result of the occupancy of his property, 50 acres of land were damaged to such an extent as to necessitate replowing and reseedling, at \$5.20 per acre, and that he will be damaged in the amount of \$2,000, representing loss of hay in 1941, due to reconditioning said 50 acres.

A claim was filed with the War Department by Mr. Armstrong in the amount of \$2,260 as compensation for the damages sustained by him.

Three members of the Farm Board of Appraisers appeared before the board of officers convened to investigate the claim, and testified that, to the best of their knowledge and belief, a just and reasonable estimate of the damage done to the property in question was \$1,525, estimated as follows:

Plowing-----	per acre--	\$3. 50
Fitting (harrowing and discing)-----	do-----	2. 00
Seeding (cost of seed)-----	do-----	3. 00
Labor on seeding-----	do-----	1. 00
25 percent loss of crop due to short yield of new planting next year at \$15 per ton, at 1½ tons per acre-----	per acre--	5. 50
Fertilizer-----		3. 00
Total, per acre-----		18. 00
50 acres, at \$18 per acre-----		900. 00
Loss of afterfeed, 50 acres, at \$10 per acre-----		500. 00
Labor in cleaning ditches-----		25. 00
Labor and material in filling holes, latrines, and ditches-----		100. 00
Total loss and damage-----		1, 525. 00

The Board recommended an award of \$1,525, which amount the claimant has expressed his willingness to accept.

Upon review of the claim in the War Department, the claimant was informed that the only method available to the Department for the prompt payment of his claim was settlement from the annual appropriation set aside for that purpose, but that the act providing for such settlement limited to \$500 the amount allowable on each claim; and that the only other act under which his claim could be

settled was that of August 24, 1912 (37 Stat. 586), which authorizes the Secretary of War to approve claims of this nature in amounts greater than \$500 and not exceeding \$1,000 for certification to the Congress for a special appropriation. Information was requested from the claimant as to whether he desired to accept \$1,000 in full settlement of his claim, provided that the claim should be approved by the Secretary of War in that amount and an appropriation should be made therefor by the Congress for the payment thereof. No reply has been received from the claimant to a letter addressed to him under date of October 25, 1940, and again under date of November 18, 1940, relative to his wishes in the matter.

In view of the foregoing, the Department, as stated above, favors the enactment of legislation to compensate Mr. Armstrong in the amount of \$1,525 for the loss he has suffered as a result of occupation of his land by troops of the United States Army and through no fault or negligence on his part.

Sincerely yours,

ROBERT P. PATTERSON,  
*Acting Secretary of War.*

BOARD OF SUPERVISORS,  
ST. LAWRENCE COUNTY,  
Canton, N. Y., August 12, 1941.

Hon. CLARENCE E. KILBURN,  
*Congressman, Washington, D. C.*

DEAR CONGRESSMAN: According to your request, I am sending you an itemized bill of the damage to Mr. Armstrong's land as a result of the Army maneuvers for the year 1940 in the town of Lisbon.

Plowing 50 acres of ground, at \$5.20 an acre.....	\$260
Second cutting of hay, 50 tons, at \$10 a ton.....	500
Digging out ditches.....	100
100 tons of hay of 1941 crop, at \$10 a ton.....	1,000
For seeding ground in 1941.....	250
Filling garbage holes and removing stone.....	150
Total.....	2,260

This is an estimate used by the appraisers, agreed upon by the Army, to adjust claims for the damage to the property. The appraisers and Mr. Armstrong have justly agreed that this is the proper amount that he should receive. Later the Army contacted Mr. Armstrong and offered him the amount of \$1,525, stating that he would receive the money at once if he would take this amount offered, otherwise he might have to wait a long time and have a bill introduced in Congress to receive the original amount. Mr. Armstrong agreed to take the \$1,525. Just what has happened since I do not know, but anyway Mr. Armstrong did not receive the money and is willing at this time to take the \$1,525 that the Army agreed to give him. Mr. Armstrong tells me that when the division of the Army that was camped on his ground arrived, they needed more land than he had agreed to furnish them and that they used 25 acres more of his land than he had agreed to furnish them. It is my understanding that Mr. Armstrong is willing to settle in full for the \$1,525.

Yours truly,

ROBERT D. BECKER,  
*Clerk, Board of Supervisors.*

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IN SENATE,  
January 12, 1911.  
REPORT  
OF THE  
COMMISSIONER OF THE LAND OFFICE,  
IN ANSWER TO A RESOLUTION  
PASSED BY THE SENATE  
MAY 1, 1909.  
ALBANY:  
J. B. LEECH, STATE PRINTER,  
1911.

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1911.

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